

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAMEL ERVIN,

Plaintiff,

- against -

THE CITY OF NEW YORK, POLICE OFFICER RANDON
RUSH, POLICE OFFICER KEN MIKLAS, SERGEANT
JOSEPH QUIGLEY,

Defendants.

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**

07 CV2981 (JSR)

USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 1-2-08

WHEREAS, plaintiff Shamel Ervin commenced this action, by filing a complaint on or about April 13, 2007 alleging that certain of his federal and state rights were violated; and

WHEREAS, defendants, the City Of New York, Officer Randon Rush, Police Officer Ken Miklas, Sergeant Joseph Quigley have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. This above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff Shamel Ervin the total sum of TWENTY-THREE THOUSAND SEVEN HUNDRED DOLLARS (\$23,700), in full satisfaction of all claims, including claims for costs, expenses, and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against the City Of New York, Officer Randon Rush, Police Officer Ken Miklas, Sergeant Joseph Quigley, by their attorney, Michael A. Cardozo, Corporation Counsel Of The City Of New York and to release any present or former employees or agents of the City of New York and the New York City Police Department, and the City of New York from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses, and attorneys' fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, releases based on the terms of paragraph "2" above and the Affidavit of No Liens.

4. Other than as set forth in paragraph "2" above, neither plaintiff, nor any party in privity with plaintiff, shall have any recovery for any damages, injury, equitable or other relief, or fees or costs in connection herewith.

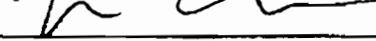
5. Nothing contained herein shall be deemed to be an admission by the City of New York that it has in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time, nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
Dec. 21, 2007

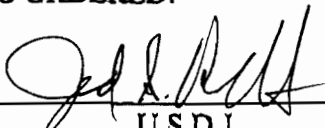
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By: 
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By: 
DAVID M. POLLACK (DP 3873)
Assistant Corporation Counsel

SO ORDERED:


U.S.D.J.

12-28-07